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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,251	04/22/2004	Jeong Sik Lee		7269

7590 10/14/2004
DOHYUN PARK
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EXAMINER

KAUFFMAN, BRIAN K

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 10/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/829,251

Applicant(s)

LEE, JEONG SIK

Examiner

Brian K Kauffman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/22/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The specification is objected to because it is replete with terms, which are not clear, concise and exact. Examples of some unclear, inexact or verbose terms used in the specification are: page 1, line 10, the word "the" should be inserted before the word "main". On page 1, lines 10, the word "of" should be deleted. All instances of the word "wrap-way" should be revised to "warp-way". The word "the" should be inserted where necessary in order to make the specification grammatically correct.

Claim Objections

Claims 1, 4-7, and 10-12 objected to because of the following informalities: All instances of the word "wrap-way" should be modified to "warp-way". In claim 1, line 4, the word "And" should be modified to "and". In claim 4, line 2, the word "the" should be inserted before the word "sweatband". In claim 5, line 2, the word "the" should be inserted before the word "sweatband". In claim 10, line 2, the word "the" should be inserted before the word "sweatband". In claim 11, line 2, the word "the" should be inserted before the word "sweatband". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 6, 7, and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject

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matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In regard to claims 1 and 7, the applicant does not explain how the band is woven to form a cylinder. Typical woven fabrics are flat.

In regard to claims 6 and 12, the applicant does not explain how the warp can be both made of monofilament and multi-filament yarn if the warp is supposed to only include monofilament yarn. It is not explained if this is a separate embodiment or not.

Claim Rejections - 35 USC § 103

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-2 and 4-5 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Dean (4,107,371). Dean discloses a sweatband using monofilament yarn for headwear; the sweatband is woven with monofilament yarn and nylon multifilament yarn containing no polyurethane. The yarn comprises of polyester or nylon (col. 2, lines 5-7, 17-18, and 35-40).

The most important characteristics of the band are to reinforce the soft structure of the crown of the free-size cap and be flexible enough to adapt to the shape of the hat and the user's head. Dean discloses that the monofilament yarn is employed for

stiffening and that the multifilament yarn is employed for flexibility (col. 2, lines 5-8 and col. 3, lines 5-9). Monofilament and multifilament yarns can be used in both the weft and warp directions as long as the monofilament yarn is used in the vertical direction in order to provide structural support. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use monofilament yarn in the warp direction and multifilament yarn in the weft direction as disclosed by Dean since the warp and weft directions can be interchangeable as long as the monofilament yarn is used in the vertical direction.

Claims 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cho (6,115,844) in view of Dean (4,107,371). Cho discloses headwear comprising: a crown main body (fig. 2); a visor portion; and a sweatband (A) attached along the lower peripheral edge of the crown main body. Cho does not disclose a sweatband that is woven with monofilament yarn and nylon multifilament yarn containing no polyurethane, the yarn comprising of polyester or nylon. Dean does disclose a sweatband that is woven with monofilament yarn and nylon multifilament yarn containing no polyurethane, the yarn comprising of polyester or nylon (col. 2, lines 5-7, 17-18, and 35-40). Dean discloses that the monofilament yarn is employed for stiffening and that the multifilament yarn is employed for flexibility (col. 2, lines 5-8 and col. 3, lines 5-9). Monofilament and multifilament yarns can be used in both the weft and warp directions as long as the monofilament yarn is used in the vertical direction in order to provide structural support. Cho discloses that the sweatband may be used as a support to maintain the shape of the cap (col. 4, lines 14-15). It would have been obvious to one

having ordinary skill in the art at the time the invention was made to modify Cho's device to include Dean's sweatband as taught by both Cho and Dean in order to provide structural support to maintain the shape of the cap.

Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dean (4,107,371) in view of Moretz et al. (5,471,683). Dean does not disclose that the headband be two-ply. Moretz et al. does disclose that the headband be two-ply (col. 4, lines 52-53). Using more layers aids moisture management (col. 4, lines 54-58). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Dean's device by using two layers as taught by Moretz et al. in order to aid in moisture management.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K Kauffman whose telephone number is (703)605-4933. The examiner can normally be reached on M-F every week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703)305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BKK

A handwritten signature in black ink that reads "Peter Nerbun". The signature is fluid and cursive, with the first name "Peter" and last name "Nerbun" clearly distinguishable.

Peter Nerbun
Primary Examiner